



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

ENERGY

IN THE MATTER OF THE AMENDED PETITION OF)	<u>AMENDED</u>
ATLANTIC CITY ELECTRIC COMPANY FOR A)	<u>SUPPLEMENTAL</u>
DETERMINATION PURSUANT TO THE PROVISIONS)	<u>DECISION AND ORDER AS</u>
OF N.J.S.A. 40:55D-19 THAT THE USE OF)	<u>TO THE AMENDED</u>
CERTAIN LANDS WITHIN THE TOWNSHIP OF)	<u>STIPULATION ROUTE IN</u>
EGG HARBOR, TOWNSHIP OF GALLOWAY, AND)	<u>BARNEGAT TOWNSHIP</u>
THE CITY OF PORT REPUBLIC WITHIN THE COUNTY)	
OF ATLANTIC; AND WITHIN THE TOWNSHIP OF BASS)	
RIVER WITHIN THE COUNTY OF BURLINGTON; AND)	
WITHIN THE TOWNSHIP OF LITTLE EGG HARBOR,)	
TOWNSHIP OF EAGLESWOOD, TOWNSHIP OF)	
STAFFORD, TOWNSHIP OF BARNEGAT, TOWNSHIP)	
OF OCEAN, TOWNSHIP OF LACEY WITHIN THE)	
COUNTY OF OCEAN, ALL IN THE STATE OF NEW)	
JERSEY, ARE REASONABLY NECESSARY FOR THE)	
SERVICE, CONVENIENCE OR WELFARE OF THE)	
PUBLIC; AND THAT THE ZONING AND LAND USE)	
ORDINANCES OF THOSE MUNICIPALITIES AND)	
COUNTIES SHALL HAVE NO APPLICATION THERETO)	DOCKET NO. EE02080521

(SERVICE LIST ATTACHED)

BY THE BOARD:¹

Atlantic City Electric Company ("Atlantic Electric", "Company" or "Petitioner") is a corporation of the State of New Jersey, and an electric utility as defined within Title 48 of the New Jersey Statutes and, as such, is subject to the jurisdiction of the New Jersey Board of Public Utilities ("Board"). On August 9, 2002, Atlantic Electric filed a Petition pursuant to N.J.S.A. 40:55D-19 requesting an order that the Zoning, Site Plan Review and all other Municipal Land Use Ordinances or Regulations promulgated under the auspices of Title 40 of the New Jersey Statutes and the Land Use Act of the State of New Jersey, as adopted by the Township of Egg Harbor, the Township of Galloway, the City of Port Republic within the County of Atlantic, and the Township of Bass River within the County of Burlington, and the Township of Little Egg Harbor, the Township of Eagleswood, the Township of Stafford, the Township of Barnegat, the

¹ Commissioner Jack Alter did not participate in the deliberation or the vote on this matter.

Township of Ocean, and the Township of Lacey within the County of Ocean or by any of them, or of the respective counties, all in the State of New Jersey, shall not apply to either the siting of certain transmission line corridors or the construction and operation of a 230,000 volt ("230kV") transmission line all as more specifically described therein and as proposed to be constructed within and through a portion of said municipalities and counties; nor shall such Statute, Ordinances, Rules or Regulations promulgated thereunder be applied to the facilities and structures associated with and appurtenant to said transmission line. The details and findings made as to the majority of the petition's Northern Route can be found in the Board Order issued April 20, 2004.

On April 20, 2004, the Board adopted, in a preliminary decision, a corrected Stipulation submitted by the Company, Barnegat Township, Ocean Township and the County of Ocean detailing a proposed route of the transmission line along the boundary of Ocean and Barnegat Townships and completing the transmission run. The Board noted in that Order, however, that the decision would not become final until 5:00 P.M. on Friday, April 23, 2004, and would be subject to modification prior to that time in the event the parties and the participant, Heritage Point, presented an acceptable stipulation along the lines of the "Route C" discussed in the Board's April 23, 2004 Order.

On April 23, 2004, the parties to the initial stipulation, as well as Heritage Point, submitted an additional stipulation again modifying the proposed route of the transmission line through Barnegat Township. The nature of the stipulation, as set forth more fully in the attached copy, is as follows:

The proposed route begins in Barnegat Township where the route, which is the subject of the amended Petition, intersects Pancoast Road. The proposed route will be in Ocean Township and will be located on the north side of Pancoast Road within a fifty foot wide area that shall consist of the following lands - Respondent, Ocean Township will grant a 25 foot wide easement within Pancoast Road to Petitioner for a distance of .66 miles for \$1.00; Petitioner shall also secure a 25 foot wide easement located on the north side of Pancoast Road through Block 36, Lots 4, 5.01, 6 and 7; and an easement consisting of .16 miles with a width of 25 feet through Block 31, Lot 9.

It is anticipated that the proposed route will turn south in Barnegat Township within the subdivision known as Heritage Point North wherein Petitioner shall secure from Barnegat Hill Associates a 50 foot wide easement through Block 93.20, Lots 57 through and including Lot 46, and Lot 110. The route will then continue in a Southerly direction and Petitioner shall secure a 50 foot wide easement on the Westerly property line of Block 93, Lot 9.02, as well as a 50 foot wide easement along the Southerly property line of the aforescribed lot. The line shall then continue in a Southerly direction and Petitioner shall secure a 25 foot wide easement along an existing access easement through Block 93, Lot 9.01, and Petitioner shall secure a 25 foot wide easement on an open space lot known as Block 94.01, Lot 156, owned by the Pheasant Run Homeowners Association. The line will turn East on West Bay Avenue, also known as County Road 554, and proceed in an Easterly direction to Block 92, Lot 18 and then continue within an existing right-of-way owned by Petitioner.

In addition, the Board will modify its prior approval for that portion of the route running south of Bay Avenue, along the south side of Harpoon Drive and the west side of Lighthouse Drive within the public right of way. These modifications provide for placement of the poles in such a manner as to avoid the need to impact New Jersey Lands Trust Property. Petitioner will acquire a number of properties for this purpose.

All of the parties to the initial stipulation, as well as the participant, Heritage Point, have agreed to this Stipulation and have withdrawn their opposition to the Company's petition, as amended by the terms of the Stipulation.

Based upon the foregoing, the Board HEREBY MODIFIES the approval granted to the "Barnegat Stipulation" in the Board's April 23, 2004 Order to the extent set forth in the April 23, 2004 Stipulation and HEREBY SUPPLEMENTS the Board Order issued April 20, 2004, in Docket No. EE02080521, and HEREBY FINDS the route proposed in the Stipulation of April 23, 2004, described above and more fully described in the copy attached to this Order, is necessary for the service, convenience and welfare of the public. Accordingly, the Board HEREBY ADOPTS the Stipulation of April 23, 2004. In addition, the Board FURTHER FINDS:

1. That the element of the 230kV transmission line covered by the corrected Stipulation adopted by the Board on April 20, 2004, as amended by the Stipulation of April 23, 2004, as proposed, designed, routed and constructed, will minimize adverse impact upon the environment;

2. That, as to the route described in the corrected Stipulation adopted by the Board on April 20, 2004, as amended by the Stipulation of April 23, 2004, the proposed 230kV transmission line and its associated facilities and structures to be constructed, as proposed by Petitioner, can be constructed, installed and operated without substantial detriment to the public good, without violating the intent and purpose of the zoning plans and zoning ordinances of the affected municipalities and counties, and without causing undue economic injury to the neighboring property owners; and

3. That, as to the route described in the corrected Stipulation adopted by the Board on April 20, 2004, as amended by the Stipulation of April 23, 2004, there is no reasonable, practicable, permanent and reliable alternative to the construction and routing of the proposed 230kV transmission line currently in place and agreed to by the parties which would have any less adverse impact upon the environment or upon the Zoning and Land Use Ordinances of the affected municipalities or counties.

Therefore, the Board HEREBY DETERMINES, in accordance with N.J.S.A. 40:55D-19, that the element of the 230kV transmission line described in the corrected Stipulation adopted by the Board on April 20, 2004, as amended by the Stipulation of April 23, 2004, and its associated facilities, is reasonably necessary for the service, convenience and welfare of the public in order to enable Petitioner to continue to adequately and safely serve its customers; that Petitioner shall be permitted to construct, operate and energize the 230kV transmission line, as proposed, by July, 2005; that the line will be energized and operated at 230kV without further Order from this Board; and that the Local Land Use and Zoning ordinances, and any Ordinance, rule or regulation promulgated under the auspices of the Land Use Act of the State of New Jersey by any affected municipality or county, or in furtherance thereof shall not apply to the routing, construction, use and operation of the 230kV transmission lines.

Accordingly, the Board HEREBY ORDERS that in accordance with N.J.S.A. 40:55D-19 et seq., and with regard to the route described in the corrected Stipulation adopted by the Board on April 20, 2004, as amended by the Stipulation of April 23, 2004, that no governmental ordinances or regulations, permits or license requirements made under the authority thereof shall apply to the siting, installation, construction or operation of the proposed 230kV transmission line, the transmission line corridors, nor to any of its appurtenant or associated facilities and structures to

be constructed; and that Petitioner, as to the route described in the corrected Stipulation adopted by the Board on April 20, 2004, as amended by the Stipulation of April 23, 2004, shall be permitted to proceed to commence and complete the construction and installation and shall proceed to energize and operate the 230kV transmission line, and all facilities appurtenant thereto, in the manner hereinabove determined by this Board.

The Board continues to remain cognizant that the siting of the 230kV transmission line is located within areas governed by the Pinelands Protection Act and the Coastal Area Facilities Review Act. This Order shall not be construed as a certificate, license, consent or permit to construct or disturb any land within the jurisdiction of these areas until Petitioner obtains any approval or authorization to proceed from the Pinelands Commission pursuant to N.J.S.A. 13:18A-1 et seq. and the New Jersey Department of Environmental Protection pursuant to N.J.S.A. 13: 19-1 et seq.

DATED: **4/29/04**

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

FREDERICK F. BUTLER
COMMISSIONER

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

SIGNED

KRISTI IZZO
SECRETARY

**I/M/O the Amended Petition of Atlantic City Electric Company for a Determination
Pursuant to the Provisions of N.J.S.A. 40:55D-19**

BPU DOCKET NO. EE02080521

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